



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 5491-99
19 November 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 4 December 1947 for three years at age 19. The record reflects that you were advanced to SA (E-3) and served without incident until 4 August 1948 when you were convicted by general court-martial of two periods of UA totalling 56 days, from 5 April to 4 May, and 7 May to 3 June 1948. You were sentenced to confinement at hard labor for five months, reduction in rate to SR (E-1), total forfeitures, and a bad conduct discharge. The convening authority approved the findings and the sentence on 2 September 1948 and the Secretary of the Navy approved the convening authority's action on 22 October 1948. Thereafter, you declined an opportunity to request restoration to duty and the clemency board authorized execution of the bad conduct discharge. You were so discharged on 11 December 1948.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity,

limited education, good post-service conduct, and the fact that it has been more than 50 years since you were discharged. The Board noted your contention that you wanted to plead guilty to UA, but when you went to trial your counsel pled you not guilty. You assert that the trial was a "disaster." Your claim of honorable Army service is not supported by any evidence submitted in support of your application. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge since you were convicted by a general court-martial of relatively lengthy periods of UA after only eight months of service. The Board noted the aggravating factor that you declined an opportunity to request restoration to duty, the one opportunity you had to earn a discharge under honorable conditions. Your discharge and conviction were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director